

---

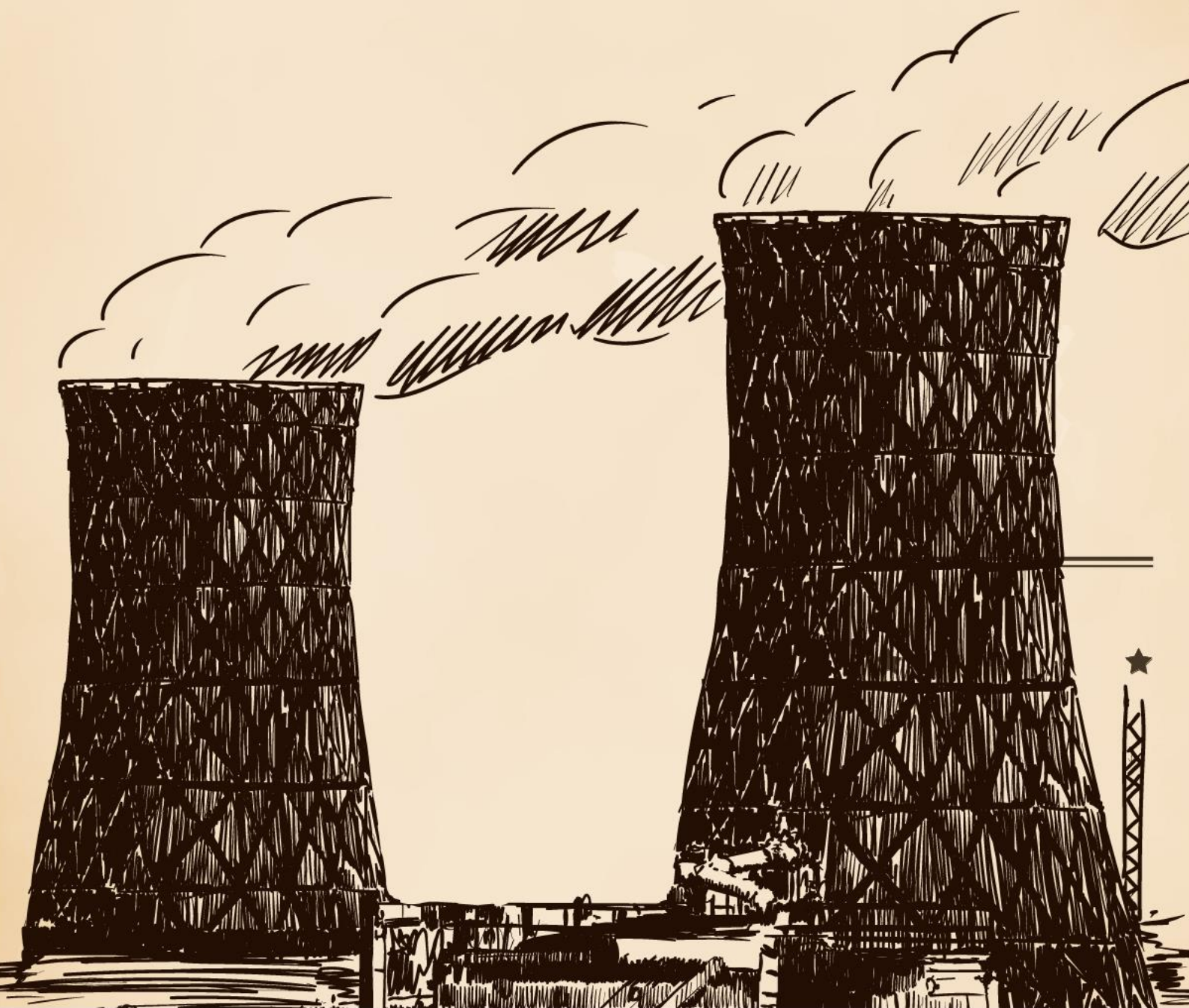
# Suggestions On Concept Note By MoP For Pooling Of Tariff Of Thermal And Gas Generating Stations Over 25 Years Of Age

---

Submitted to Ministry of Power

December 2022

---



CENTRE FOR ENERGY, ENVIRONMENT & PEOPLE

The Ministry of Power has invited stakeholder comments on a concept note for pooling of tariff of 25 years plus thermal/gas generating stations (“concept note”). The following comments are provided by CEEP in this regard.

## GENERAL COMMENTS

### 1. Developing market mechanisms for ancillary services

The concept note recognises the need to address “balancing needs until development of adequate storage capacity,”<sup>1</sup> for the integration of variable renewable energy in the grid. But while conventional generation capacity, especially gas, which is free from PPAs, is better poised for system balancing, the concept note envisages to use of this capacity to meet base load requirements instead. We appeal that the Ministry explore the potential of deepening the market for ancillary services and utilising assets like gas power plants for system balancing at prices determined by market mechanisms.

### 2. Impact on decommissioning

A pooling mechanism shall mask technical and financial inefficiencies of the thermal plants and is likely to have a negative impact on India’s NDCs. Such a mechanism will incentivise gencos to continue to run the old plants, instead of retiring them. This adds to the complexity of decommissioning, ageing thermal capacity and broader goals of decarbonisation.

### 3. Pooling based on age (25 years)

The concept note proposes the creation of a common pool of generating stations based on age but does not provide a rationale for the limit of 25 years. While CERC’s tariff regulations specify 25 years as the *useful life*,<sup>2</sup> It is used for computing depreciation and other costs but not the actual life of generating stations, which routinely operate much beyond 25 years in India and the world.

### 4. Defining efficiency standards

Given that the concept note is built on the premise of continuing “the operation of existing *efficient* thermal capacities,”<sup>3</sup> the CEA should specify standards to determine and benchmark the efficiency of old thermal capacity. The decision to pool generating stations should be guided based on technical, commercial, and environmental considerations, and not merely age. Further, we recommend that CEA establishes clear benchmarks for the retirement of thermal assets based on the aforementioned criteria.

### 5. Rights of beneficiaries and gencos

Implementation of the pooling mechanism will require the abrogation of rights accorded to states/discoms to exit PPAs of stations that have completed 25 years from COD, as under

---

<sup>1</sup> Concept note, pp. 1

<sup>2</sup> Regulation 3 (73), clause (a) and (b), CERC Tariff Regulations 2019

<sup>3</sup> Concept note, pp. 2

regulation 17 of the CERC Tariff Regulations 2019. The mandatory nature of the pooling mechanism limits the right of discoms/states to enter into a contract based on terms they deem favourable. This is contrary to the broad freedom to contract envisaged in section 11 of the Contract Act, 1872.

The proposed mechanism also does not define whether it is mandatory for the gencos to join the pooling exercise. A mandate limiting the rights of gencos to negotiate PPAs for a term of their choice, either directly with the beneficiaries or through open access, constrains the fundamental freedom to carry on trade or business as envisaged in article 19(1)(g) of the Constitution of India.

## 6. Interest of consumers

Power plants over 25 years of age are often depreciated to their residual value and have low fixed costs. The end-consumers of discoms have paid for the overall depreciation of the asset over the PPA period to its residual value. A mandate for the compulsory relinquishment of such capacity at the expiry of the PPA period is against the interest of consumers as it restricts access to low-cost electricity.

## 7. Review of pipeline capacity

Currently, 27 GW of thermal capacity is under construction in India, with 12 GW in Central, and 15 GW in the State sector.<sup>4</sup> Most of these capacities would be tied up in long-term PPAs on commissioning, typically 25 years.

We recommend that the Ministry develops an alternative mechanism to discourage or defer investment in new thermal assets and enhance the utilisation of existing assets. For instance, states planning capacity addition can be encouraged to approach utilities in other regions where spare capacity is available. Instruments such as VGF and discounts on ISTS charges may be considered for incentivising the procurer. s

## 8. Scope of Pooling

The concept note does not clarify whether it proposes to include the gencos owned by state governments and IPPs within the scope of pooling of thermal assets older than 25 years, in addition to the central generating stations. If the pooling mechanism proposed in the concept note is also applicable to state government-owned generating stations, it will encroach upon the jurisdiction of the States as laid out in Article 246 read with the Seventh Schedule to the Constitution of India.

---

<sup>4</sup> 180<sup>th</sup> Quarterly Review, Central Electricity Authority, 2022, available at [https://cea.nic.in/wp-content/uploads/thermal\\_project/2022/11/Approved\\_QRR\\_July\\_Sep22.pdf](https://cea.nic.in/wp-content/uploads/thermal_project/2022/11/Approved_QRR_July_Sep22.pdf)